

From: [Turner, Philip](#)
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To: Turner, Philip; Fagan, Nancy; Ehrhart, Richard; Bennett, Noel; Hubner, Tara; Jacques, Wendy; King, Laurie; Lyssy, Gregory; Mayer, Richard; Schulze, Jeanne; Thomas, Kathryn; Torcoletti, Paul
Subject: The Inside Story : GAO Urged To Assess EPA Fertilizer Plant Oversight

The Inside Story

GAO Urged To Assess EPA Fertilizer Plant Oversight

Posted: April 29, 2013

House Democrats are urging the Government Accountability Office (GAO) to assess EPA's oversight of fertilizer plants' storage of hazardous materials following the fertilizer facility explosion in West, TX, that killed 14 people, with the lawmakers suggesting gaps in oversight and seeking potential options to improve scrutiny of the plants.

In [an April 25 letter](#) to GAO Comptroller General Gene Dodaro, Reps. George Miller (D-CA) and Joe Courtney (D-CT) say gaps in the oversight from both EPA and the Occupational Health and Safety Administration (OSHA) put at risk the people who work at or live near 6,000 retail fertilizer facilities and 40 fertilizer plants around the United States. The request covers facilities that distribute, blend and store ammonia-related fertilizers.

The West Fertilizer Co. plant that exploded in Texas contained anhydrous ammonia and ammonium nitrate, a chemical used in fertilizer, according to the Texas Commission on Environmental Quality and published reports. EPA oversees safety at fertilizer plants and other facilities through its Clean Air Act risk management plan (RMP) program, which requires some 13,000 facilities that produce, handle, process, distribute or store certain chemicals to craft RMPs on reducing risks from accidental chemical releases.

However, the RMP program exempts reporting of ammonium nitrate storage because the chemical is not classified as a toxic air pollutant, according to the House Democrats' letter. "How many facilities are exempted from this disclosure pursuant to the RMP?" they ask.

The lawmakers note that EPA inspected the facility in 2006 and found several deficiencies, including not timely filing an RMP, and they also criticize a lack of more extensive oversight of the facility.

"The fact that the Texas plant was located across the street from a middle school, a large apartment complex, and a nursing home, and near a high school makes it particularly worrisome that it was not being inspected more frequently by OSHA or the EPA," the lawmakers write. "We are also concerned that such an explosion may be possible at similar facilities across the nation."

The Democrats also ask that the GAO weigh how EPA and OSHA's regulation of the hazards of ammonium nitrate fertilizer and anhydrous ammonia compare with regulation of those substances in the United Kingdom. They also ask GAO to assess whether EPA and OSHA, as well as state regulators, can improve their coordination to provide better oversight and prevent fires and explosions at fertilizer facilities.

The lawmakers also question OSHA's oversight, noting the agency had not inspected the West plant since 1985, and that the plant may have been exempt from OSHA enforcement oversight because of legislative language that exempts certain establishments with 10 or fewer employees. OSHA has 103 inspectors in Texas and the average establishment in the state is inspected only once every 139 years, the letter says.

The request for GAO to investigate comes after one environmentalist called call for stricter enforcement of RMP

violations [in the wake of the West explosion](#), and also for buffer zones that would prevent facilities with hazardous materials from being located near schools and residential neighborhoods.

Environmentalists are also petitioning EPA to strengthen oversight of safety and reduce risks from a possible terrorist attack at industrial facilities by using its authority under the Clean Air Act to impose inherently safer technologies (IST) -- changes in products or processes that eliminate the use or dangerous handling of hazardous materials at industrial plants.

Sen. Frank Lautenberg (D-NJ) has also introduced legislation that would require IST where feasible, though even environmentalists say the bill is unlikely to pass, and that EPA use of air law authority to impose IST is needed.